

in this case, cannot succeed in his application, and an order will be passed accordingly.

JOHN GLENN for the Petitioner.

W. H. FREEMAN for Respondent.

WILLIAM RIDGEWAY AND WIFE

VS.

STEPHEN TORAM.

SEPTEMBER TERM, 1850.

[JURISDICTION—CHANCERY PRACTICE—REMEDY AT LAW—SUPPLEMENTAL BILLS  
IN THE NATURE OF BILLS OF REVIEW.]

A BILL in equity can be filed to enforce the vendor's lien, only when the complainant has exhausted his remedy at law, or when he avers in his bill, such facts as will show that he cannot have a full, complete, and adequate remedy at law.

The question of jurisdiction, depends exclusively upon the case made by the bill, and in determining the question whether this court can or cannot grant relief, recourse cannot be had to the statements of the answer, or to any other part of the proceedings.

It is a settled rule, even in the case of deeds, that if there be a condition precedent, and it is not performed, and the parties proceed with the performance of other parts of the contract, although the deed cannot take effect, the law will raise an implied assumpsit, upon which an action of assumpsit can be maintained.

The bill in this case was dismissed upon the ground that it did not make a case giving the court jurisdiction, because there were no allegations showing, either that the complainants had no remedy at law, or having such remedy, had exhausted it.

A petition asking leave to file a supplemental bill in the nature of a bill of review, may be filed at any time before the decree is enrolled.

In this state, there is no formal rule for the publication of testimony, as in England, but objections to the evidence are taken and considered at the hearing.

If the parties at any time before the hearing, should discover new evidence, they will, upon application, be allowed to take it, and if such new evidence requires the bill to be amended, an order for that purpose will be passed, or perhaps it may be amended, and a supplemental bill filed without an order, as a matter of course.

On an application for leave to file a supplemental bill in the nature of a bill of review, it is not enough that the new facts were not known before the hear-